



Prepared Testimony of

Joseph L. Falk, Government Affairs Committee Chair

National Association of Mortgage Brokers

on

"Licensing and Registration in the Mortgage Industry"

before the

Subcommittee on Housing and Community Opportunity

Committee on Financial Services

U.S. House of Representatives

Thursday, September 29, 2005

Good morning Chairman Ney and members of the subcommittee, I am Joseph L. Falk, Government Affairs Committee Chair and a past president of the National Association of Mortgage Brokers (NAMB). Thank you for inviting NAMB to testify on issues relating to licensing and registration in the mortgage industry. NAMB is here today to discuss the need for national, minimum licensing and education standards for all mortgage originators, and the creation of a national database of mortgage originators. We appreciate the opportunity to address the role of the residential mortgage community and specifically, mortgage brokers, in protecting consumers, reducing the incidence of abusive lending, and elevating the level of professionalism throughout the mortgage origination industry.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry. As the voice of the mortgage brokers, NAMB speaks on behalf of more than 27,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise. By adhering to a strict code of ethics and best lending

practices, NAMB members guide consumers through the mortgage loan origination process.

We are here today to discuss the need for, and impact of, national, minimum licensing and education standards and a national database of mortgage originators to assist in combating abusive lending. Before discussing these important topics, NAMB wants to applaud this subcommittee for its leadership in addressing the issues relative to licensure and/or registration of mortgage originators. In particular, we commend the bipartisan effort of Representatives Ney and Kanjorski in introducing the Responsible Lending Act of 2005 (H.R. 1295) (“Act”). NAMB believes that the Act is a critical step in the right direction. We look forward to working closely with this subcommittee in further refining this bill so that it appropriately addresses the multitude of issues surrounding licensure and education of all mortgage originators, and includes a national database that serves as an effective tool for consumers, regulators, and industry professionals alike.

America enjoys an all-time record rate of homeownership today. Mortgage brokers have contributed to this achievement as we work with a large array of homebuyers and capital sources to originate the majority of residential loans in the United States. NAMB is committed to working with the House Financial Services Committee to ensure that abusive lending practices do not destroy the dream or the many benefits of homeownership for American families.

National, Minimum Licensing and Education Standards

NAMB supports efforts to expose and combat abusive lending tactics provided that these efforts do not inadvertently diminish consumer access to affordable credit or inhibit the ability of mortgage finance professionals to work closely with consumers throughout the homebuying and ownership process. There are many facets in the Act designed to combat abusive lending; our testimony today will focus only on Title V. NAMB believes that part of the solution to successfully combat abusive lending is to require licensing and education of all mortgage originators - not just mortgage brokers - as consumers should be protected regardless of which distribution channel they use.

The abusive lending acts of mortgage loan originators can be divided into two categories: intentional acts against a borrower and unintentional acts that have similar results.

Unintentional Acts

Unintentional acts include those mistakes made by a mortgage originator that result from lack of knowledge about a loan product, the mortgage process or relevant laws and regulations. These are mistakes that any mortgage originator can make, even those employed by banks and other non-depository entities. The best solution to unintentional mistakes on the part of mortgage originators is a national, minimum requirement of pre-licensure education and continuing education. Continuing education requirements should include studies on State laws, federal statutes, and ethics. Course material to include standards on ethics may help fill in the gap between the legal written requirements of any

abusive lending legislation and the intent of such legislation. The Act incorporates these key features into its licensing provisions. NAMB appreciates the inclusion of pre-licensure and continuing education requirements, as well as written examinations, into the Act's proposed licensing scheme. For the Act to serve its purpose, however, Title V should be applicable to all mortgage originators.

Intentional Acts

Intentional acts are certainly the most grievous acts committed by mortgage originators against consumers. An example of an intentional act is a mortgage originator using personal financial information provided by the consumer during the mortgage loan process illegally—in other words, using such information to commit identity theft. This Act incorporates many requirements to create red-flags to consumers and impose additional requirements for certain types of loans. Criminal background checks similarly operate as a red-flag mechanism, providing to consumers and regulators relevant and critical information about mortgage originators. NAMB appreciates the incorporation of criminal background checks into the Act's proposed licensing scheme, but again for the Act to serve its purpose, Title V should require background checks of all mortgage originators to bar employment when financial malfeasance is discovered.

All Mortgage Originators, Not Just Mortgage Brokers

To address the mistakes and consequences that arise from both intentional and unintentional acts, all mortgage originators must receive education, ethics training, and submit to a criminal background check. These three precepts form the foundation upon which adequate and effective consumer protection measures against abusive lending can be built. The Act's proposed licensing scheme falls short of protecting consumers and elevating the expertise of the industry because it fails to make the provisions applicable to all mortgage originators. Any individual that signs a 1003 form¹ should be subject to these national, minimum licensing and education standards, regardless of whether such person is employed by a mortgage broker, a mortgage banker, an internet mortgage originator, a consumer finance company, a mortgage lender, an entity with no net worth, or an entity with significant financial assets. It also should not matter if there is a parent corporation, a subsidiary corporation, a domestic company, an international owner, or any variation of the foregoing. Creating a national, minimum standard means that it applies equally and fairly to all distribution channels in the mortgage industry; that one channel is not treated differently than another; that no competitor is better or worse, no bigger or smaller; and that size and financial worth is not an accurate indicator of either honesty or integrity. There should be no channel bias that leads consumers to believe that one competitor is 'better' or 'worse' than another.

Model State Statute Initiative

The basic requirements of education, continuing education, ethics training, written exams, and using criminal background checks to bar employment can be found in

¹ A Form 1003 is a Uniform Residential Loan Application.

NAMB's ongoing work and commitment on the Model State Statute Initiative (MSSI) that NAMB began in 2002. The MSSI has long focused on licensure, pre-licensure education and continuing education requirements, as well as criminal background checks, to protect consumers and to ensure mortgage originators attain a minimum level of expertise on a state-by-state level.² NAMB has consistently believed that these requirements should be applicable to all mortgage originators to help reduce the incidence of abusive lending practices and improve the overall expertise of the industry.

NAMB implores Congress to embrace the concepts contained in the MSSI and create a national, minimum standard that will ensure every single mortgage originator, regardless of employer, is licensed and properly educated—no exceptions. Federal legislation that affords all residents equal protection throughout the mortgage loan application process is necessary. A federally-mandated floor for licensing and education standards that applies to all mortgage originators, but which empowers states to strengthen, implement and enforce such provisions for its residents, is the best means available to ensure that all consumers, regardless of location, receive appropriate guidance and sufficient protection throughout the mortgage loan application process.

We commend the direction that Title V of the Act is moving, nevertheless, the potential for fraud remains rampant when any licensing scheme fails to ensure that every person engaged in the licensed activity is held to the same standard of education and ethical conduct. Consumers must be secure in the fact that mortgage originators are subject to the same or similar standards and held to the same degree of professionalism. The need for this fair-handed and level standard of professionalism throughout the industry is even greater given the current environment of identity theft and fraud.

Education, Criminal Background Checks and Identity Theft

Pre-licensure education and continuing education requirements are effective measures in protecting consumers throughout the mortgage origination process. To ensure the existence of a minimal level of expertise, all mortgage originators should receive pre-licensure education. Mortgage originators should not only understand the features of the loan products they sell, but also have sufficient knowledge of the laws and regulations that govern the loan origination industry. To maintain this competency and enhance the expertise of the industry, all mortgage originators should be required to comply with continuing education requirements. The mortgage industry is not static and has changed dramatically over the years. In the past five years alone, the number of loan products available to consumers has ballooned—we no longer live in a world of only a 30-year fixed or 5/1 adjustable rate mortgage ("ARM"). Today, loan products range from a 40-year fixed to interest-only and 4-pay option loans. It is imperative that mortgage originators possess up-to-date knowledge about both loan products and relevant laws as the industry evolves.

² Through MSSI, NAMB sought to have individual state statutes enacted that would require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model state statute would serve as a prototype for state regulators and legislatures whose states do not have such statutes or whose states need to improve their statutes to protect and better serve the community. A copy of the MSSI model state statute is attached hereto as Appendix A.

While pre-licensure and continuing education requirements further ensure that a consumer works with a knowledgeable originator, the consumer also deserves to know he or she is not working with an individual who has been convicted of a financial crime, such as fraud. If an originator has been convicted of a financial crime, he or she should not be dealing with consumers and taking mortgage applications. A valuable tool for protecting consumers from such intentional bad acts of mortgage originators is the criminal background check. Criminal background checks create a barrier to entry into the mortgage origination system by those convicted of financial and other crimes. Criminal background checks conducted periodically throughout employment also ensure that an originator who has unfettered access to sensitive financial information of consumers continues to be licensed, educated and ethical.

Identity theft and the security of sensitive customer information, including all personal financial information, are at the forefront of Congressional concern and efforts. Many members have called for national legislation that would implement tighter controls regarding the use of consumer data as well as measures to prevent these types of security breaches. It is clear that Congress wants all business entities, both large and small, to ensure that their customers' personal information is secure from security breaches. Protecting consumers from data security breaches but failing to mandate criminal background checks of those individuals to whom consumers directly give their personal data for consummation of a mortgage transaction creates a vast hole in any identity theft protection measure.

NAMB supports provisions in Title V calling for criminal background checks; however, the provision as written is applicable only to mortgage brokers. A fundamental flaw would exist in consumer protection efforts if Congress were to require criminal background checks for mortgage brokers, but not for others in the mortgage origination system. Pursuant to Title V of the Act, those deemed unfit for a state mortgage broker license because of financial improprieties found in their criminal background check could easily move to another mortgage originators' operation.

Bifurcating the loan origination world into those mortgage originators that must have criminal background checks and those that do not creates the very opportunity upon which identity thieves thrive. Requiring a mortgage originator to submit to a criminal background check is a key component which is vital to consumer protection in any licensing construct. As such, any individual who signs a 1003 form should have to submit to a criminal background check.

We are cognizant that there are differing thoughts as to what requirements should comprise the national, minimum licensing standards and who should be subject to such requirements. NAMB, however, stands firm in its conviction that for any licensing requirement to be effective, serve its objectives appropriately and curtail abusive lending practices, it must apply equally and fairly to anyone that signs a 1003 application for a residential mortgage loan. We are concerned that exceptions to such consumer protection measures will increase consumer confusion and vulnerability to fraud.

Nevertheless, NAMB recognizes the oversight of federally-regulated depository institutions by their respective federal regulators. The provisions in Title V of this Act would exempt these federally-regulated depository institutions from the purview of its licensing and education requirements. NAMB understands the complexities of functional regulations under which the depository institutions operate. NAMB supports the Act's exemption from licensing and education requirements promulgated by the states *provided* that mortgage loan originators employed (*i.e.*, W-2 employees) by federally-regulated depository institutions have substantially similar education, licensing and other requirements as their state-licensed counterparts.

Nationwide Database of Mortgage Originators

In addition to national, minimum licensing standards for all mortgage originators, another useful device for combating abusive lending is a national database of all mortgage originators. Such a system could help track unintentional and intentional behavior of those mortgage originators who should not be in the profession because of a weak mortgage educational background or because they are unscrupulous actors.

NAMB supports a national database of all mortgage originators provided the following key concepts are incorporated: (1) all mortgage loan originators should be listed; (2) any substantiated claim must be fully adjudicated by the proper governmental entity; (3) any database must assign all mortgage originators a permanent portable identification number; (4) data in the database must be populated with data pulled either from state created and maintained databases or potentially from data collected by the federal regulators; (5) the oversight and operations of the entity operating the database must be unbiased and not profit related; (6) the costs of the operations must be absorbed by the government; and (7) the database must be kept compliant with national privacy laws.

All mortgage originators should be included in the national database system with no exceptions – depository, non-depository and mortgage brokers. A database of only state-licensed mortgage brokers would not prevent an unscrupulous actor ejected from one state's licensing structure from freely moving to another state to continue their unscrupulous behavior. In addition, those ejected from the mortgage industry by a state-licensing regulator should not be able to re-enter into the mortgage origination system through employment by either depository or non-depository lenders. A nationwide database applicable to all mortgage originators would serve as a deterrent for bad behavior, whether intentional or unintentional.

Some may argue that only brokers should be subject to a database, along with national, minimum licensing standards, however, including one subset of mortgage originators does nothing more than confuse and mislead the consumer. The framework for debate here is not one of regulation, but rather one of consumer ability to make a well-informed decision. Consumers should be able to access and evaluate information about any mortgage originator—be it a mortgage broker or a loan officer operating for a large mortgage finance company—so as to make an informed decision about which one they will work with during the mortgage application process. NAMB believes that for any

national database of licensed individuals to be useful it should apply to every single individual engaging in the regulated activity.

A national database must also establish a framework to facilitate regulation within the mortgage industry; provide useful information on the licensing and regulatory status of mortgage originators that would aid consumers in their selection of a mortgage originator; and could include verified employment status. For example, information submitted to the national database would be of the type that would typically be used by a consumer when choosing a mortgage originator with whom he or she would conduct business, such as: adjudicated claims, license status, and license history.

Lastly, NAMB believes that a viable national database would maintain an appropriate equilibrium between the costs imposed and the benefits yielded from such a repository of information. Of course, the operations of such a national database would require oversight and control. This brings us to the last issue we would like to address—the need for a Consensus Committee.

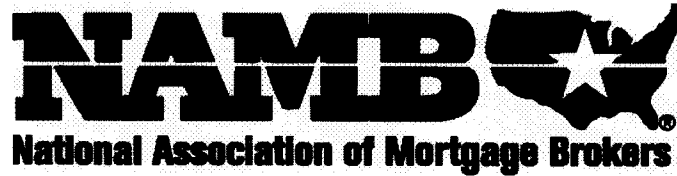
Consensus Committee

NAMB supports the concept of a Consensus Committee that would be charged with a variety of tasks, including overseeing the national database and making proposed policy recommendations to the Secretary of Housing and Urban Development on housing issues such as the Real Estate Settlement Procedures Act of 1974.

We believe a Consensus Committee would be beneficial to the mortgage industry in numerous ways. It would administer the national database system with appropriate consumer and industry efficiencies. It would also provide a mechanism for the industry to jointly request appropriate standards of conduct for those participating in the mortgage industry, as well as new products that may be useful and beneficial to the market but which need clear government compliance guidance. A Consensus Committee could also act as a resource to various federal and state agencies and provide consultation on various industry concerns.

Conclusion

Any legislation to curb abusive lending practices should create a national, minimum licensing and education standard and a national database for all mortgage originators, regardless of the distribution channel — broker, banker, lender — chosen by consumers. Such legislation should also simultaneously encourage growth in homeownership by ensuring continued credit availability, competition and choice for consumers. We appreciate the opportunity to offer our views and look forward to working with this committee to address these important issues.



Model State Statute Initiative

Licensing, Pre-licensure Education and Continuing Education Requirements for All Originators

*NAMB proposes a state statute initiative to protect consumers
and ensure originator competency.*

June 2002

Amended January 2005

The National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

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Acknowledgements*

This Model State Statute Initiative is the result of a consensus process involving the Model State Statute Task Force, the NAMB Board of Directors and the NAMB Delegate Council and many internal committees.

NAMB wishes to thank President Joseph L. Falk, CMC, CRMS, for his leadership and commitment in proposing and promoting this major consumer protection initiative.

The Model State Statute Task Force provided inspirational leadership in developing the concepts and articles to be included in this Initiative. Thank you Mitch Medigovich, CMC, Leo Davenport, CRMS and Kate Crawford for your many hours of service and your clear thinking and thoughtfulness throughout the deliberative process.

Thank you to the Communications Committee, chaired by Al Wood, CRMS, NAMB's public relations firm of Merton G. Silbar Public Relations, Natalie Bachiri, NAMB's Director of Communications, NAMB's management firm, Association Management Group, as well as NAMB's legal counsel Robert Lotstein and staff of the firm of Lotstein Buckman.

The Legislative Committee, chaired by J.J. Sims and the Education Committee, chaired by Carol Gardner, CMC, CRMS, contributed mightily to the end product using their committee structure, committee members and other individuals to add to this national initiative.

We would also like to acknowledge and thank the NAMB Board of Directors and Delegate Council who have endorsed this proposal for protecting mortgage consumers.

* As of June 2002

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June 2002

Dear Mortgage Professional:

Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Therefore, residential mortgage loan originators who work directly with the public should be educated, honest and professional.

The National Association of Mortgage Brokers is proud to announce a comprehensive initiative to better serve and protect the public through increased licensure, training and education of all residential mortgage originators. The NAMB Model State Statute Initiative is based on NAMB's firm belief that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

NAMB is taking a proactive stance on consumer protection. This model statute serves as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has four basic tenets:

- a) It should apply to all residential mortgage loan originators
- b) There should be a state licensing requirement
- c) There should be a pre-licensure education requirement
- d) There should be a continuing education requirement to maintain competency

Our 44 state affiliates, which comprise NAMB, support this initiative and recommend that specific concepts for licensure and education be considered based on each state's current statute(s). NAMB recognizes that some states have aggressively monitored the industry through licensure and others have made education mandatory; whereas other states have determined different levels of oversight to regulate the mortgage industry.

While each state is different, NAMB believes that this initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry in every state. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through to fruition and will monitor the progress of this initiative in each state.

Our state affiliates will now lead the charge to protect consumers through enhanced licensing, pre-licensure and continuing education proposals to their respective state legislatures and mortgage regulators.

Thank you for your support of this proposal for State Licensure, Pre-licensure Education and Continuing Education for all originators.

Sincerely,

Joseph L. Falk, CMC, CRMS
President



NAMB Model State Statute Initiative

Goal: To better serve and protect the public, the residential mortgage loan industry will endeavor to license, train and educate all residential mortgage originators. NAMB firmly believes that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

Concept: Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Residential mortgage loan originators who work directly with the public should be educated, honest, and professional.

Overview: NAMB is taking a proactive stance on consumer protection. NAMB seeks to have individual state statutes enacted that require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model statute would serve as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has several basic tenets:

- a) **It should apply to all residential mortgage loan originators**
- b) **There should be a state licensing requirement**
- c) **There should be a pre-licensure education requirement**
- d) **There should be a continuing education requirement to maintain competency**

NAMB believes that such an initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through fruition and will monitor the progress of this initiative in each state.

All residential mortgage loan originators should have formal training and should be tested on their knowledge of matters including financial analysis, ethics, federal and state disclosures, real estate law, and mathematical computations germane to real estate and mortgage lending prior to contact with the public. Residential Mortgage Loan Originators should be well qualified before they work with homeowners on mortgaging or financing their most valuable asset.

For this reason, NAMB recommends and supports a standardization of education and experience for every person who holds themselves out to the public to be a Residential Mortgage Loan Originator.

Licensing Overview

We believe that each state should enact a licensing requirement for all residential mortgage loan originators. The requirements for licensure should encompass all residential mortgage loan originators and all owners or responsible individuals of residential mortgage loan entities.*

Residential Mortgage Loan Officer Shall be defined as any individual who, for compensation or gain, takes or receives a mortgage application, assembles information, and prepares paperwork, and documentation necessary for obtaining a residential mortgage loan, or arranges for a conditional mortgage loan commitment between a borrower and a lender, or arranges for a residential loan commitment from a lender. Residential Mortgage Loan Officers also include an employee who solicits financial and mortgage information from the public for sale to another residential mortgage broker.

Principal Mortgage Owners/ Responsible Individual Defined as the owner, or managing general partner, or responsible individual, or any Officer, or stock holder, who holds themselves out to be the party accountable for residential mortgage loan originations or branch mortgage operations, with in the state, and/or the person in direct management of residential mortgage loan origination.

Exempt Any individuals who do not deal (i.e. negotiate interest rates, loan programs, offer loan locks, loan commitments) directly with borrowers. This includes persons who complete incidental services in arranging or procuring a mortgage loan, including administrative staff wherein their primary function is the verification of data provided by the borrower, assembly of documents and coordination of third party services such as ordering an appraisal, title report or credit reports.

Anyone who deals directly with a consumer and reviews, analyzes, evaluates a proposed borrowers financial statements, income, property characteristics and credit history should obtain a license.

Licensing Requirements

To obtain a state license to become a residential mortgage loan originator, the following concepts should be adopted:

1. A written application for licensure must be required. The application should require an attestation by the applicant as to the applicant's experience and knowledge of the mortgage industry.
2. The applicant should submit to a background investigation of, at a minimum, criminal records, and employment history.
 - No individual should be licensed who has had a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise who has acted beyond legal limits.
 - No person should be licensed who has been convicted of acts against society that could be deemed 'moral turpitude'. Such acts where licenses should be denied must include duties owed by licensees to the public including acts contrary to justice and the doctrine of "fair dealing", honesty, principle or good business morals. This includes, but is not limited to theft, extortion, use of the mail to obtain property under false pretenses, tax evasion and the sale of, or the intent to sell controlled substances.
 - The licensee should provide evidence that they have managed their business and personal financial affairs with care and diligence.

3. A first time Residential Mortgage Loan Officer Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of the subjects listed below.
4. A Principal Mortgage Lending Entity/Owner/Responsible party Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of course work from the subjects listed below.¹
5. A Licensee Applicant shall pass an examination of the applicant's knowledge after items 1-4 above have been completed.
6. Licenses shall be valid for a two-year period. Upon expiration of the two-year period, the licensee should submit an application for renewal to the appropriate licensing authority. The renewal application should, at a minimum, include evidence of completion of continuing education courses, as described below.
7. The licensing authority should have the authority to request additional information from the Licensee Applicant to support statements made on the application or dispute matters discovered through investigation.
8. All initial applicants shall submit a finger print card, which shall be forwarded to the local Department of Public Safety and/or FBI for a records check.
9. The Licensee Applicant shall pay sufficient fees to pay for Licensing Authorities' costs of processing the license application and investigations.
10. Upon receipt of a Residential Mortgage Loan Officers license, the licensee shall immediately deliver the license to his/her employing broker. Upon termination of employment of a Residential Mortgage Loan Officer, the license shall be transferred to a new employing broker and the regulating authority should be notified. If the Residential Mortgage Loan Officer does not have a new employing broker, the license shall be returned to the Licensing Authority with an explanation or the reasons for termination.
11. The appropriate state regulatory authorities should maintain state licensing or registration records.

Grandfathered Persons

Every Residential Mortgage Loan Officer, currently registered, licensed or otherwise employed in the mortgage industry immediately preceding enactment of this initiative shall be permitted to continue employment as a Residential Mortgage Loan Officer. Each current originator shall be required to meet all of the necessary elements of licensure at the next renewal period specified by state law.

Unless provided for in state law, every Principal Residential Mortgage Lending Entity or Owner, currently licensed immediately preceding enactment of this initiative shall be permitted to maintain their license and position. Each current Principal Residential Mortgage Lending Entity/Owner shall be required to meet all of the necessary elements of licensure at the next renewal period specified in the state law.

¹ Based upon the experience of many mortgage brokers, the educational requirement should be greater than that required of Residential Loan Officers.

Pre-Licensing Education

All persons making an initial application for licensing must:

- a) Attend educational courses, determined by the state, when applying for a Residential Loan Officer license;
- b) Attend educational courses, determined by the state, when applying for a Principal Mortgage Owner license;
- c) Pass a test of core competencies;
- d) Receive a certificate of completion from the school or organization that provided courses.

Each State or Licensing Authority should, with the assistance of the local mortgage professionals, establish review and approve curriculum sufficient to establish a baseline of knowledge for licensees.

Recommended Course Curriculum Pre-licensure course curriculum may include:

- a. Federal Lending Laws;
- b. Ethics, Diversity and Sensitivity;
- c. Practices of Residential Lending.
- d. Real Estate and Mortgage Mathematics;
- e. Escrow Procedures, Title Insurance and Loan Settlement;
- f. Appraisals and Land Survey;
- g. Loan Processing and Loan Underwriting Process;
- h. Secondary Mortgage Market;
- i. Loan Default and Foreclosure Law;
- j. State Statutes and Rules.

Continuing Education Requirements

Every residential mortgage originator, whether a Residential Loan Officer or Principal Mortgage Owner, shall, upon renewal of an existing license, submit proof of satisfactory completion of a course of study.

Subjects may include:

- a) Federal and State Lending Law;
- b) Local Rules and Regulations;
- c) Ethics and Professional Standards;
- d) General Real Estate or General Financial Studies;
- e) Product Update;
- f) Personal Development;
- g) Diversity Training.

Continuing education courses may be offered through classroom instruction, electronic transmission, or distance learning. Qualifying hours may be obtained by attendance at a locally chartered real estate or mortgage business school, accredited college, university or community college, or vocational school or other institution approved by the state licensing agency.

The licensee should receive a completion certificate that such hours have been successfully completed. Licensees shall submit the appropriate completion certificate(s) with the license renewal form.

Conclusion

It is the intent of this initiative to engage measures to reduce the incidence of predatory lending and to raise the standards for those persons who interact with the public in the area of home financing. Every Residential Loan Originator should be licensed, responsible and accountable for his or her actions when working with the public. We at NAMB believe that establishing minimum educational requirements as well as requiring continuing education will substantially increase each Residential Loan Originator's awareness of their responsibility and duty to give consumers fair and honest service. It may be desirable for each state to consider establishing a mortgage oversight board to assist the commissioner with up-to-date material for pre-licensing and continuing educational courses.

*This initiative contemplates using the words 'license' and 'registration' interchangeably. We leave to the States to determine if this process includes an individual license, permit or an aggregated corporate registration methodology, so long as both aspects of educational requirements are maintained and criminal background investigations and prohibitions are maintained. If a corporate registration of all originators is contemplated, it should require 'employee' status and a bonding requirement should be considered. It is understood that if such a corporate methodology is utilized, paragraph 10 under Licensing Requirements is not applicable.

Recommended Course Curriculum

Pre-licensure course curriculum may include:

I. Federal Lending Laws. Licensees should develop competencies in matters of federal mortgage statutes, which may include:

- a) Regulation Z, Truth in Lending Act;
- b) Real Estate Settlement Procedures Act (RESPA);
- c) Regulation B, the Equal Credit Opportunity Act;
- d) Regulation C, the Home Mortgage Disclosure Act;
- e) National Flood Insurance Act;
- f) Fair Credit Reporting Act;
- g) Federal Trade Commission rules concerning advertising for credit;
- h) Servicing Transfer Act;
- i) Privacy Act;
- j) Consumer Protection Act;
- k) Community Reinvestment Act.

II. Ethics, Diversity and Sensitivity. Licensees should be able to discuss the canons of:

- a) Fair Housing Act;
- b) Emerging Markets;
- c) Redlining and Block-busting;
- d) Ethical practices of mortgage lending.

III. Practices of Residential Lending. Licensees shall develop competencies in the subjects of:

- a) Evolution of Residential Lending in the United States
- b) The role of Government Sponsored Enterprises (GSE's)
- c) Federal National Mortgage Association
- d) Government National Mortgage Association
- e) Federal Home Loan Mortgage Corporation
- f) Federal Housing Administration
- g) Veteran's Administration
- h) Farmers Home Administration
- i) Private Mortgage Insurance Industry Principles of Mortgage Lending, including but not limited to:
- j) Assisting consumers in selection of loan programs including adjustable rate loans;
- k) Evaluating the relationship between discount points and interest rates;
- l) Describing the costs of originating a mortgage loan;
- m) Preparing and discussing the required state and federal disclosures with a consumer;
- n) Interpreting and discussing loan contingencies and covenants with the consumer;
- o) Explaining the loan commitment issued by a lender;
- p) Reading and understanding a real estate contract as it relates to financing of real property;
- q) Identifying methods of holding title to real estate and discuss options with the consumer;
- r) Describing the advantages of primary and subordinated financing options;
- s) Explaining and preparing a Good Faith Estimate of costs for a consumer.

IV. Real Estate and Mortgage Mathematics. Licensees should develop competencies in basic mathematics.

The licensee should have the basic skills to:

- a) Calculate gross and net loan amounts to satisfy a consumers loan request;
- b) manually prepare a Good Faith Estimate of costs and Truth in Lending statement;
- c) calculate and analyze ratios of mortgage payment-to-income;
- d) calculate the ratio of total obligations-to-income to determine loan acceptability;
- e) analyze income tax returns for self-employed borrowers to confirm sufficient income;
- f) calculate loan to value ratios;
- g) calculate origination fees, yield spread premiums and discount points;
- h) calculate prorations for real estate taxes and insurance amounts for the reserve account;
- i) calculate rate changes on adjustable rate mortgages;
- j) convert hourly and weekly salaries to monthly income to compute ratios;
- k) determine that the consumer has sufficient funds for closing;
- l) calculate monthly principal and interest payments and the amortization of a loan;
- m) calculate per diem interest amounts;
- n) manually calculate the Annual Percentage Rate
- o) describe the theory of Time Value of Money and the impact on the financing contract.

V. Escrow Procedures, Title Insurance and Loan Settlement. Licensees should develop competencies in matters of closing forms and the closing process. The licensee should be able to explain the documents and process so that the borrower fully understands what is taking place.

The documents to be explained include, but are not limited to:

- a) the mortgage note and its provisions for default, the lenders rights and the borrowers rights;
- b) the security agreement, (mortgage or deed of trust), including each of the covenants and conditions;
- c) the HUD-1 closing statement and its relationship to the Good Faith Estimate of Costs;
- d) the Good Faith Estimate of costs and final Truth in Lending statement;
- e) the consumers right of rescission.
- f) the purpose and cost of lenders title insurance;
- g) the purpose and cost of owners title insurance;
- h) title examination;
- i) title abstract;
- j) lien theory;
- k) Schedule "B" exceptions to title insurance

VI. Appraisals and Land Survey. The licensee should be able to describe:

The three methods of valuation, including:

- cost approach;
 - market approach;
 - income Approach;
- a) the theory of economic obsolescence;
 - b) the theory of functional obsolescence;
 - c) the theory of depreciation;
 - d) the theory of depletion;

- e) the Rectangular Survey System;
- f) the method of legal identification of real property in their state;
- g) calculate the number of acres in a given area;
- h) calculate the number of square feet in a given area.

The licensee should be able to understand and communicate with the borrower the purpose and process of the appraisal, the survey, title insurance, restrictive covenants, deed restrictions, and encroachments and pest inspections.

VII. Loan Processing and Loan Underwriting Process. Licensees should study the subjects of loan processing and underwriting. After study in this section, the licensee should be able to:

- a) prepare, explain, and execute a business agreement with the consumer;
- b) demonstrate the ability to understand and explain an FNMA 1003 mortgage application;
- c) explain requirements for determining if the property, income and credit of borrower fit the loan offerings available through the licensee.

The licensee should have the knowledge to collect the necessary exhibits anticipated for:

- a) underwriting contingencies;
- b) understanding the procedures and requirements for issuing adverse action notices;
- c) assembling for submission an entire loan package for underwriting.
- d) evaluation of an appraisers conclusions.

The licensee should also have a basic knowledge of:

- a) negotiating a rate lock;
- b) investigation and confirmation of application data;
- c) arranging for a property inspection;
- d) evaluating and reviewing a title insurance policy;
- e) owner's versus mortgagee's title insurance policies;
- f) the function and operation of private mortgage insurance and knowing when it is required;
- g) when private mortgage insurance can be canceled;
- h) the meaning of the terms novation, assumption, and "subject to the mortgage";
- i) release of liability.

The licensee should be able to demonstrate an understanding of the basics concepts of:

- a) fixed versus variable rate mortgage loans;
- b) negative and positive amortization principles;
- c) graduated payment mortgages;
- d) reverse mortgages;
- e) shared appreciation mortgages;
- f) bi-weekly mortgages;
- g) temporary and permanent interest rate "buy-downs";
- h) the concept of a wraparound mortgage.

VIII. Secondary Mortgage Market. Licensees should study the process of the secondary market. The licensee should be able to describe:

- a) how interest rate markets are established;
- b) interest rate risks;
- c) the theory of “yield spread premiums”;
- d) the theory and process by which loans are sold;
- e) the theory and purpose of a loan purchase commitment;
- f) FNMA and FHLMC standard eligibility requirements;
- g) the function and method of operation of FNMA, GNMA and FHLMC;
- h) the method and marketing aspects of a GNMA mortgage-backed pass-through security;
- i) the theory of “service release premiums”.

The licensee should also be able to explain the basic functions of;

- a) mortgage servicing;
- b) collections;
- c) remittance of payments;
- d) escrow accounts for taxes and insurance;
- e) payoffs ;
- f) assumptions;
- g) the transfer of servicing rights.

IX. Loan Default and Foreclosure Law. Licensees should study Foreclosure Law. Licensees should be able to describe:

- a) the type of foreclosure law most frequently used in their state;
- b) the legal process of a judicial foreclosure;
- c) the legal process of a trustee’s sale and how it differs from a judicial foreclosure;
- d) the borrower’s rights of reinstatement;
- e) the borrower’s right of redemption;
- f) the legal process of a forfeiture of equitable title;
- g) the effects of subordinate liens after foreclosure;
- h) the effects of mechanics and materialmen’s liens;
- i) the process of tax lien sales.

X. State Statutes and Rules. Licensees should study of State and local law. Licensees should be able to identify:

- a) minimum record keeping requirements;
- b) record retention requirements;
- c) minimum requirements for licensing;
- d) the process for examination of a licensee’s records;
- e) standards for accounting;
- f) standards for maintaining Trust Funds;
- g) minimum net worth requirements;
- h) minimum bonding requirements;
- i) local disclosure requirements;
- j) contracts and written agreements with consumers;
- k) minimum requirements for supervision of employees;



The National Voice of the Mortgage Broker

Established in 1972, the National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates, and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

A mortgage broker is an independent real estate financing professional who specializes in the origination of residential and/or commercial mortgages. There are approximately 33,000 active mortgage broker operations across the nation that employ an estimated 240,000 people and originate 65% of all residential loans in the U.S.

A mortgage broker is also an independent contractor who markets and originates loans offered by several wholesale lenders. By offering superior market expertise, and direct access to many different loan programs, a mortgage broker provides the consumer the most efficient and cost-effective method of obtaining a mortgage that fits the consumer's financial goals and circumstances. Mortgage brokers originate more mortgages than any other single loan source group in this nation.

The brokerage industry plays a significant role in the mortgage lending process and American economy, increasing competition and driving down costs. The expansive mortgage broker network allows loan wholesalers of all sizes to immediately gain a national presence without incurring the great expense of national advertising and maintenance of branch offices.

The mortgage broker industry is regulated by 10 federal laws, five federal enforcement agencies and over 45 state laws or licensing boards. Additionally, brokers typically have some type of Quality Control requirements and NAMB members also adhere to a strict Code of Ethics and best lending practices.